

Wherefore, upon consideration of the same, the Court finds that good cause exists for entering this Agreed Judgment Entry and that the stipulations and agreements between the

parties are well taken. Accordingly, pursuant to the stipulations and agreement of the parties, it is therefore ORDERED, ADJUDGED AND DECREED:

A. That the Joint Motion of Plaintiff and Beechmont Retail, LLC for Substitution of Party Plaintiff and Counsel (Doc. No. 42) was granted by the Court's Order entered January 24, 2012 (Doc. 44). Accordingly, Lender has been substituted as plaintiff in this action in the place of BOA, and the record, including the judgments entered herein, shall so reflect the substitution. From the date of entry of this Order, the case caption shall reflect that Lender is the assignee of BOA and is now plaintiff. BOA is no longer a party to this action.

B. That Ronald L. House, Esq., John F. Stock, Esq., J. Allen Jones, III, Esq., David R. Mayo, Esq. and Benesch, Friedlander, Coplan & Aronoff LLP have withdrawn as counsel of record for the plaintiff, and Karen R. Adams, Esq., Joseph C. Krella, Esq. and Dinsmore Shohl LLP are counsel of record on behalf of the plaintiff.

C. That this case involves, among other things, the foreclosure of Lender's leasehold mortgage with respect to the following ground leases between Comboni, as ground lessor, and Beechmont, as ground lessee:

- Amended and Restated Ground Lease dated as of December 10, 1999 between Comboni and Beechmont Twins, LLC for premises known as Anderson Plaza;
- Amended and Restated Ground Lease dated as of December 10, 1999 between Comboni and Beechmont Twins, LLC for premises known as Anderson Station;
- Amended and Restated Ground Lease dated as of December 10, 1999 between Comboni and Beechmont Twins, LLC for premises known as Ground Round; and

- Amended and Restated Ground Lease dated as of December 10, 1999 between Comboni and Beechmont Twins, LLC for premises known as Plaza on Beechmont.

The foregoing instruments, and all amendments thereto, shall be referred to collectively as the “Ground Leases.” The Ground Leases are attached to plaintiff’s Complaint (Doc. 1) as Exhibits C-F, respectively.

D. That, prior to the commencement of this case, Beechmont executed and delivered a leasehold mortgage that conveyed a security interest and lien in Beechmont’s rights, title and interest in the Ground Leases (“Leasehold Mortgage”), which Leasehold Mortgage secures a \$9,200,000.00 business purpose promissory note executed by Beechmont (“Note”). The Note and Leasehold Mortgage are attached to plaintiff’s Complaint (Doc. 1) as Exhibits A and G, respectively.

E. That, Lender is the legal and equitable holder of the Note and Leasehold Mortgage and is solely and exclusively entitled to enforce the holder’s rights thereunder in this suit and otherwise.

F. That, on November 29, 2010, the Court entered its Judgment Entry Granting Motion for Summary Judgment of Plaintiff and Decree in Foreclosure (the “Decree”) (Doc. 28), pursuant to which, among other things, the Court (i) entered a money judgment in favor of plaintiff against Beechmont for the balance due under the Note plus certain fees, interest, and costs; and (ii) granted a decree of foreclosure in favor of plaintiff with respect to its leasehold mortgage and the equity of redemption, if any, of the Defendants with respect to the underlying Ground Leases.

G. That, on December 22, 2010, the Court entered its Order of Sale (Doc. 30).

H. That, the Court subsequently appointed Kathleen E. Hayes, as Special Master, to oversee the sale of the subject Ground Leases. (Doc. 33)

I. That, the parties have agreed to conclude this case on the terms set forth herein in order to preserve the assets of the parties, in consideration of the dismissal of this case and to conclude this litigation.

Accordingly, the Court hereby ORDERS, ADJUDGES, and DECREES as follows:

1. That Beechmont shall convey Lender's assignee, MBR Beechmont Holdings, LLC, an assignment of its rights, title and interest in the Ground Leases in recordable form and in a form acceptable to Lender.
2. That Comboni consents to Beechmont's assignment of its rights, title and interest in the Ground Leases to Lender's assignee, MBR Beechmont Holdings, LLC. Comboni shall execute such documents or instruments as may be necessary to deliver its consent and to permit Beechmont's assignment of its rights, title and interest in the Ground Leases to Lender's assignee, MBR Beechmont Holdings, LLC.
3. That the Ground Leases shall remain subject to the Lender's Leasehold Mortgage and nothing herein shall be deemed to void or impair the priority or validity of Lender's Leasehold Mortgage. The transactions contemplated by this Agreed Judgment Entry shall not be deemed to constitute or create a merger of Lender's interest in the Ground Leases or the underlying real property.

4. That the Clerk of this Court shall cause a certified copy of this Agreed Judgment Entry to be filed in the Records of the Office of the Recorder of Hamilton County, Ohio for the purposes of placing third parties on notice of the respective rights of the parties hereto.
5. That the Special Master has duly performed her obligations with respect to this case and is hereby discharged of her duties herein.
6. That the Special Master's fee in this case shall be \$2,000.00, which represents an increase from the standard fee of \$500.00, but by agreement of the parties, is appropriate in light of the complexity of this matter and the extent of the Special Master's activities herein. The Clerk is hereby directed to disburse the sum of \$2,000.00 to the Special Master.
7. That plaintiff shall pay to the Clerk of this Court, the costs of this action, including the fees of the appraisers and the fees of the Special Master.
8. That, except as herein provided, this case is hereby dismissed with prejudice at plaintiff's cost.

IT IS SO ORDERED.

s/Sandra S. Beckwith
SANDRA S. BECKWITH
UNITED STATES SENIOR DISTRICT JUDGE

APPROVED:

/s/ Karen R. Adams
Karen R. Adams, Trial Attorney (0055410)
Attorneys for Plaintiff Beechmont Retail, LLC

/s/ Donald J. Rafferty

Donald J. Rafferty, Trial Attorney (0042614)
Attorneys for Defendant Beechmont Realty
Associates, LLC

/s/ Joseph M. Schimpf

Joseph M. Schimpf, Trial Attorney (0073379)
Attorney for Defendant Comboni Missionaries
of the Heart of Jesus, Inc.

/s/ Lawrence C. Baron

Lawrence C. Baron, Trial Attorney (0022153)
Attorney for Defendant Robert A. Goering,
Hamilton County, Ohio Treasurer

AGREED AS TO SPECIAL MASTER FEE:

/s/ Kathleen E. Hayes

Kathleen E. Hayes, Special Master